

(Document No. 6). Defendant also consented to trial before a U.S. Magistrate Judge on August 23, 2021. (Document No. 7).

On June 24, 2022, Defendant filed the pending “Motion To Dismiss The Indictment With Prejudice For A Speedy Trial Act Violation” (Document No. 14). The “Government’s Response In Opposition To Defendant’s Motion To Dismiss The Indictment With Prejudice For A Speedy Trial Act Violation” (Document No. 15) was filed July 1, 2022. Following the Court’s July 20, 2022 Order (Document No. 18) directing Defendant to file a reply brief supporting his Motion to Dismiss, Defendant filed his “Response To Government’s Opposition To Motion To Dismiss The Indictment With Prejudice For A Speedy Trial Act Violation” (Document No. 20) on July 25, 2022.

The pending motion is now ripe for review and disposition.

ANALYSIS

Defendant argues that the charging Complaint in his case should be dismissed with prejudice because the Speedy Trial Act requires that his case be brought to trial within seventy days of his consent to trial before a United States Magistrate Judge. (Document No. 14, p. 3) (citing 18 U.S.C. § 3161(c)(1)). According to Defendant, “[t]he seventieth day, November 1, 2021, came and went without notice from the government or action by the Court.” (Document No. 14, p. 3). The relevant provision states: “the trial of a defendant charged...with the commission of an offense shall commence within seventy days...from the date of [Defendant’s consent to trial before a magistrate judge on a complaint].” 18 U.S.C. § 3161(c)(1). However, the Speedy Trial Act’s definition of “an offense” specifically excludes Class B misdemeanors. 18 U.S.C. § 3172(2).

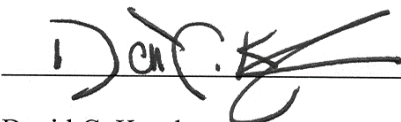
Defendant's offense – his alleged violation of 49 U.S.C. § 46506(2) – is a Class B misdemeanor, because the maximum term of imprisonment is ninety days. See D.C. CODE § 22-1312; 18 U.S.C. § 3559(a)(7) (defining a Class B misdemeanor as an offense with a maximum term of imprisonment of “six months or less but more than thirty days”). In his reply brief, Defendant essentially concedes that the Government is correct that the Speedy Trial Act does not apply to Class B misdemeanors. (Document No. 20, p. 1) (“[i]t appears that the government may be correct”).

Therefore, because Defendant's alleged offense is a Class B misdemeanor, the Speedy Trial Act does not apply and Defendant's motion is therefore denied. See United States v. Sued-Jimenez, 275 F.3d 1, 8-9 (1st Cir. 2001); United States v. Boyd, 214 F.3d 1052, 1057 (9th Cir. 2000).

IT IS, THEREFORE, ORDERED that Defendant's “Motion To Dismiss The Indictment With Prejudice For A Speedy Trial Act Violation” (Document No. 14) is **DENIED**.

SO ORDERED.

Signed: July 26, 2022



David C. Keesler
United States Magistrate Judge

